

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

MERIAL LIMITED and MERIAL S.A.S

Plaintiffs and Counterclaim-Defendants,

v.

VELCERA, INC. and FIDOPHARM, INC.

Defendants and Counterclaim-Plaintiffs.

Case No. 3:11-cv-00157-CDL

MERIAL’S MOTION FOR TELEPHONIC CONFERENCE

Merial respectfully requests a telephonic conference with the Court to quickly resolve the failure of Defendants Velcera, Inc. and FidoPharm, Inc. (collectively, “Velcera”) to produce any documents in response to Merial’s discovery requests.¹ The details of the dispute, although not complex, are described more fully in Plaintiffs Merial Limited and Merial S.A.S.’s (collectively, “Merial’s”) Emergency Motion to Compel the Production of Documents and Things (Doc. 38) .

This matter is urgent because unless Velcera produces its documents immediately, Merial will not be able to keep to the deadlines in the current Scheduling Order (Dkt. 30).² Velcera’s delay has already necessitated Merial’s filing of one emergency motion to amend the scheduling order (Dkt. 34), and Merial does not want the case schedule to slip any further.

¹ Despite having been served with interrogatories and requests for production on the first day of discovery, January 20, 2012, Velcera has yet to produce any documents in this case.

² Merial’s burden of proof expert reports are due on April 12, 2012. (Dkt. 30, Scheduling/Discovery Order, p. 4). Unless Velcera immediately produces its documents, Merial will not have time to take any necessary depositions and Merial’s experts will not have sufficient time to analyze the materials, formulate their opinions, and draft their reports.

Pursuant to Local Rule 37, Merial has had several discussions with Velcera on this issue, and Velcera has not articulated any basis for its failure to produce its documents. While Velcera recently suggested that before Velcera produces its documents the parties should discuss certain perceived issues that Velcera just raised regarding Merial's responses to Velcera's discovery requests, the two issues are not interrelated.³

CONCLUSION

Accordingly, especially given that this issue is not complex, and in the hope that it can be resolved quickly without jeopardizing the current case schedule, Merial requests that the Court schedule a teleconference to discuss these matters with the parties as soon as it is convenient for the Court.

Respectfully submitted, this 22nd day of March, 2012.

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³ Moreover, because Velcera has informed Merial that Velcera does not intend to serve any burden of proof expert reports, it is not critical that any perceived issues that Velcera may have with Merial's discovery responses be resolved in an as urgent time frame.

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CERTIFICATE OF SERVICE

I hereby certify that I have this date filed the foregoing MERIAL'S MOTION FOR A TELEPHONIC CONFERENCE via the Court's CM/ECF system, which will automatically give notice to all counsel of record.

This 22nd day of March, 2012.

s/ Edward D. Tolley
Edward D. Tolley